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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,646	04/05/2001	David Canfield	OHI1546-002B	3493

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EXAMINER
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HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 05/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

TD-4

# Office Action Summary

Application No.

09/826,646

Applicant(s)

CANFIELD, DAVID

Examiner

Robert A Hopkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,8-12,15,18 and 19 is/are rejected.
- 7) ☒ Claim(s) 3,4,7,13,14,16,17 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites "the high temperatures". There is a lack of antecedent basis for "the high temperatures" in previous claim limitations. Correction is requested.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 12 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Holz(2734769).

Holz teaches a fragrant medium apparatus comprising a top portion(11) comprising a recess(23a,24a) for accommodating a plurality of bottom portion connection members(23,24), a middle portion comprising a fragrant medium, the middle portion adapted for insertion to the top portion, and a bottom portion(22) comprising a plurality of bottom portion connection members(23,24) adapted for insertion to the recess of the top portion.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,5,6,8,9, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holz(2734769) taken together with Getzin(3252580).

Holz discloses a fragrant medium apparatus comprising a top portion(11), a middle portion comprising a fragrant medium(21), the middle portion adapted for insertion into the top portion, a bottom portion(22) comprising a plurality of connection members(23,24), the bottom portion connection members adapted for insertion into a recess(23a,24a) of the top portion. Holz is silent as to the top portion comprising a plurality of top portion connection members, the top portion connection members adapted for insertion into a recess of a bottom portion. Getzin discloses an apparatus for holding a middle portion medium, the apparatus including a top portion including a plurality of top portion connection members, the top portion connection members(11)

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adapted for insertion into a recess(between tabs 12) of a bottom portion, and a bottom portion including a plurality of connection members(11), the bottom portion connection members adapted for insertion into a recess(between tabs 12) of the top portion. It would have been obvious to someone of ordinary skill in the art at the time of the invention to include a plurality of top portion connection members on the top portion of Holz, the top portion connection members adapted for insertion into a recess of a bottom portion(22) of Holz in order to provide for a more stable structure for retaining the fragrant medium between the top portion and bottom portion.

Holz further discloses wherein the top portion and bottom portion comprise a plurality of openings(25). Holz taken together with Getzin further discloses wherein each of the top portion connection members and bottom portion connection members comprise a barb, and wherein each of the top portion connection members and bottom portion connection members are rectangular. Holz taken together with Getzin further discloses wherein each of the top portion connection members and bottom portion connection members are adapted to pass through a material. Holz taken together with Getzin further discloses wherein each of the top portion and bottom portion are adapted for attachment to a furnace filter.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holz(2734769) taken together with Getzin(3252580) in view of Hammesfahr(1091929).

Holz taken together with Getzin disclose all of the limitations of claim 11 but is silent as to wherein the top portion is adapted for attachment to a device with a fan. Hammesfahr discloses a fragrant medium apparatus having a top portion, a middle

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portion comprising a fragrant medium(22) and a bottom portion, the top and bottom portions connected together to form a cavity for the middle portion, wherein the top portion is adapted for attachment to a device with a fan(see figure 1). It would have been obvious to someone of ordinary skill in the art at the time of the invention to provide a top portion of Holz which is adapted for attachment to a device with a fan in order to provide greater dispersal of the fragrant medium than the dispersal by diffusion methods alone.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holz(2734769) taken together with Hammesfahr(1091929).

Holz disclose all of the limitations of claim 18 but is silent as to wherein the top portion is adapted for attachment to a device with a fan. Hammesfahr discloses a fragrant medium apparatus having a top portion, a middle portion comprising a fragrant medium(22) and a bottom portion, the top and bottom portions connected together to form a cavity for the middle portion, wherein the top portion is adapted for attachment to a device with a fan(see figure 1). It would have been obvious to someone of ordinary skill in the art at the time of the invention to provide a top portion of Holz which is adapted for attachment to a device with a fan in order to provide greater dispersal of the fragrant medium than the dispersal by diffusion methods alone.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holz(2734769) taken together with Getzin(3252580).

Holz teaches a fragrant medium apparatus adapted for use in a furnace, comprising a top portion (22) comprising a plurality of recess members(23), a middle

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portion comprising a fragrant solid, the middle portion adapted for insertion to the top portion, and a bottom portion comprising a plurality of top portion connection members, the bottom portion connection members adapted for insertion through a furnace filter (note connection members 23 are rectangular and are extended away from bottom portion as in figure 1 of the current application) and into a recess of a top portion. Holz is silent as to the top portion comprising a plurality of top portion connection members and the bottom portion comprising a recess. Getzin discloses an apparatus for holding a middle portion medium, the apparatus including a top portion including a plurality of top portion connection members, the top portion connection members (11) adapted for insertion into a recess (between tabs 12) of a bottom portion, and a bottom portion including a plurality of connection members (11), the bottom portion connection members adapted for insertion into a recess (between tabs 12) of the top portion. It would have been obvious to someone of ordinary skill in the art at the time of the invention to provide the connection members on the top portion of Holz and the recess on the bottom portion of Holz for an equivalent type connection of the top portion and bottom portion.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holz (2734769) taken together with Getzin (3252580) in view of Vick et al (5547636).

Holz taken together with Getzin disclose all of the limitations of claim 10 but is silent as to wherein the fragrant medium is a scented ceramic-based material. Vick et al discloses an fragrant medium attached to a furnace air filter, wherein the fragrant medium is a scented ceramic-based material. It would have been obvious to someone

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of ordinary skill in the art at the time of the invention to substitute a scented ceramic-based material for the pellet(column 2 line 1 of Holz) in order to provide a fragrance medium which is suitable for use in a high temperature environment of furnace gases.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Canale(5820791) discloses a fragrance device having barb members for attachment to a conventional air filter medium.

Snyder et al(6117218) discloses a fragrance device having a hook member or barb member for attachment to a conventional air filter medium.

Swaim(4028073) discloses a fragrance device having a bottom portion with extended barbs, a fragrance medium for insertion into the bottom portion, wherein the barbs are attached to the filter medium to hold the container to the filter medium.

### ***Allowable Subject Matter***

Claims 3,4,7,13,14,16, 17, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 3 and 13 recite "wherein the middle portion comprises a plurality of openings. Holz and Getzin disclose a solid middle portion, therefore it would not have been obvious to someone of ordinary skill in the art at the time of the invention to



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substitute a middle portion having a plurality of openings for the solid middle portion of Holz and Getzin because neither Holz nor Getzin suggest such a modification.

Claims 4 and 14 recite "wherein the top, middle, and bottom portion are circular". Holz discloses a top, middle, and bottom portion, however Holz discloses that the top and bottom portion are only formed in a tree shape. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to substitute a circular shape for the tree shape of Holz because Holz does not suggest such a modification.

Claim 7 recites "wherein each of the top portion connection members and bottom portion connection members are triangular. Both Holz and Getzin disclose rectangular formed connection members. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to substitute triangular connection members for the rectangular connection members because neither Holz nor Getzin suggest such a modification.

Claim 16 recites "wherein each of the bottom portion connection members is triangular". Both Holz and Getzin disclose rectangular formed connection members. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to substitute triangular connection members for the rectangular connection members because neither Holz nor Getzin suggest such a modification. Claim 17 depends on claim 16 and hence would also be allowable upon incorporation of claim 16 into claim 12.

Claim 20 recites "wherein said top portion, said middle portion, and said bottom portion comprise perforations". Holz discloses a top portion and bottom portion having

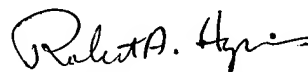
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perforations, but a solid middle portion. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to substitute a middle portion having perforations for the solid middle portion because Holz does not suggest such a modification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A Hopkins whose telephone number is 703-308-3913. The examiner can normally be reached on Monday-Friday 9:00am-3:00pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Simmons can be reached on 703-308-1972. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9572 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Robert A Hopkins  
Primary Examiner  
Art Unit 1724

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May 8, 2002